

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

In re:	§	
	§	
deeproot CAPITAL MANAGEMENT, LLC	§	Case No. 21-51523-mmp
	§	
	§	
Debtor.	§	(Chapter 7)

MOTION FOR PAYMENT OF ADMINISTRATIVE EXPENSE

1. Silicon Drive Office Venture, LLC (“Landlord”) hereby requests the entry of an order, pursuant to 11 U.S.C. §§ 365 and 503, allowing Landlord an administrative expense claim in the amount of \$249,709.04.

JURISDICTION

2. On December 9, 2021, (the “Petition Date”), Policy Services, Inc., Wizard Mode Media, LLC, deeproot Pinball LLC, deeproot Growth Runs Deep Fund, LLC, deeproot 575 Fund, LLC, deeproot 3 Year Bonus Income Debenture Fund, LLC, deeproot BonusGrowth 5 Year Debenture Fund, LLC, deeproot Tech LLC, deeproot Funds LLC, deeproot Studios LLC, deeproot Capital Management, LLC (collectively the “Debtors”) filed voluntary petitions under Chapter 7 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”).

3. On December 9, 2021, Trustee was duly appointed as the interim Chapter 7 Trustee in seven of the eleven chapter 7 cases. The chapter 7 trustee on the other four related cases resigned on December 20, 2021 (Doc. 17), and, on December 21, 2021, the Trustee was duly appointed as the interim Chapter 7 Trustee in the remaining four related cases (Doc. 19).

4. On December 20, 2021, the Court granted the Debtors’ Expedited Motion for Joint Administration. (Doc. 20).

5. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §157(b). Venue is proper in this District pursuant to 28 U.S.C. §1408 and 1409.

BACKGROUND

6. On January 26, 2018, Landlord, and deeproot Capital Management, LLC, as Tenant, entered into a Lease Agreement, which has been amended twice (“Lease”) for the Premises at 12621 Silicon Drive, San Antonio, Texas. Exhibit “1” is a true and correct copy of the Lease. Pursuant to paragraph 4 of the Lease Amendment, the Lease expires on March 31, 2023.

7. Trustee used the Premises from December 9, 2021, through March 31, 2022 for the benefit of the Estate, including storing documents, furniture, and equipment and an auction of that property. That auction netted \$529,947.85 for the Estate. [Doc. 110]. On March 31, 2022, Trustee ceased using the Leased Premises. However, the Lease has not been formally rejected.

8. Pursuant to Section 19.06 of the Lease, Landlord is entitled to recover all of its reasonable attorney’s fees, costs and expenses incurred in relation to this claim.

RELIEF REQUESTED

9. Landlord respectfully requests that this Court allow it an administrative expense claim in the amount of \$249,709.04 for the use of the Premises from December 9, 2021 through March 31, 2022.

10. The calculation is as follows with citations to the relevant Exhibits:

ADMINISTRATIVE PRIORITY RENT CALCULATION

Rent = Base Rent + Additional Rent (Lease [Exhibit 1], Art. 1, §1.01F)
\$66,255.08=\$47,524.52 + \$18,730.56 (Lease, Art. 1, §1.01G + Ledger [Exhibit 2])

Stub Rent (for 22 days of December 2021)=\$47,019.73

January 2022 Rent = \$66,255.08

February 2022 Rent = \$66,255.08

March 2022 Rent = \$66,255.08

Subtotal \$245,784.97

Disposal of property:	\$3,112.19 [Exhibit 3]
Cleaning:	\$ 811.88 [Exhibit 4]
GRAND TOTAL	\$249,709.04

BASIS FOR RELIEF

11. 11 U.S.C. §365(d)(3) requires a trustee (or debtor-in-possession) to “timely perform all the obligations of the debtor, ...arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. Section 503(b)(1)(A) of the Bankruptcy Code provides that, after notice and hearing, the Court shall allow as an administrative expense “the actual, necessary costs and expenses of preserving the estate...”

12. Because Trustee has not been paying Rent during the post-petition pre-rejection period, Landlord is entitled to an administrative claim for the Rent.

13. Trustee’s failure to pay the Rent has resulted in damages in the amount of \$245,784.47. Additionally, trash and debris were left in the Premises after the auction. Landlord spent \$3,112.19 for removal of that trash and debris and then \$811.88 to clean the Premises. The total claim is \$249,709.04. Landlord is entitled to an allowed administrative expense claim against the bankruptcy estate.

14. Landlord reserves its right to assert claims against the bankruptcy estate for amounts not contemplated by this Request or allowed by the Court, and to amend, modify and/or supplement this request, as appropriate under the circumstances.

WHEREFORE, Landlord respectfully requests that this Honorable Court enter an order substantially in the form attached hereto allowing Landlord’s administrative expense claim in the amount of \$249,709.04, and (ii) granting all other relief that may be just and proper under the circumstances.

Respectfully submitted,

/s/ John C. Dunne

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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March, 2022, I electronically filed the foregoing document using the CM/ECF system, which will serve the document on the following list of parties in interest and parties requesting notice; it was served on the Debtors via CM/ECF to their counsel, as indicated below. This Notice of Hearing will also be served via US First Class Mail to the creditor list in this matter and a supplemental certificate of service will be filed to evidence the supplemental service.

Via Counsel CM/ECF: catherine.curtis@wickphillips.com jason.rudd@wickphillips.com Policy Services, Inc. deeproot Pinball, LLC deeproot Growth Runs Deep Fund, LLC deeproot 575 Fund, LLC deeproot 3 Year Bonus Income Fund, LLC deeproot BonusGrowth 5 Year Debenture Fund, LLC deeproot Tech, LLC deeproot Funds, LLC deeproot Studios, LLC deeproot Capital Management, LLC 12621 Silicon Dr. San Antonio, TX 78249	Via CM/ECF: USTPRegiou07.SN.ECF@usdoj.gov United States Trustee - SA12 US Trustee's Office 615 E Houston, Suite 533 San Antonio, TX 78295-1539
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/s/ John C. Dunne
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